

Operational rule change proposals:

- **Permissible uses:** Supports the elimination of rules that foreclose cellular licensees from enjoying: (1) the ability to provide fixed services on an equal footing with PCS operators; (2) the same flexibility as PCS and most other CMRS competitors to offer commercial and private service under a single license; and (3) the ability to provide dispatch service. (12)

Licensing rules and procedures:

- **Comments on new application form:** The Commission should discontinue requiring Part 22 applicants to provide position information in both NAD 27 and NAD 83 coordinates, and convert to relying solely on NAD 83 data. (13)
- **Application form transition provisions:** To facilitate a smooth transition to the use of the new form, GTE suggests that, before the new form becomes effective, the Commission should conduct a workshop so that it can explain the components of the form and address specific questions. (13)
- **Mutually exclusive applications:**
 - Supports the proposals for receipt and processing of mutually exclusive applications and to use competitive bidding procedures, but opposes the proposal to replace the existing filing procedures for cellular unserved area Phase II applications with a 30-day filing window. (14)
 - The Commission established the one-day, first-come, first-served filing window for Phase II applications to curtail the filing of speculative applications and avoid processing delays. Amendment as proposed would undermine both objectives and delay the provision of service in unserved areas. (14)
- **Pre-authorization construction:** Supports rule changes to extend the liberal pre-grant construction procedures available under Part 90 to all CMRS operators. (15)
- **License term and renewal expectancies:** Supports application of the cellular renewal rules, policies, and procedures to all CMRS licensees. (16)
- **Transfers of control and assignments:** Agrees with the petitions for reconsideration challenging the transfer

disclosure requirement recently adopted in the Competitive Bidding First Report and Order. Accordingly, the Commission should modify the requirement to clarify that it applies only where unjust enrichment and speculation are likely, and to permit applicants to file summaries or extracts. (16-17)

**INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC. &
COUNCIL OF INDEPENDENT COMMUNICATION SUPPLIERS**

Interest: ITA is a certified frequency coordinator and non-profit trade association for two-way land mobile radio communication users. CICS is a trade association for private SMR operators, radio dealers, equipment suppliers, and consultants.

Creating comparable regulatory requirements:

- Caution that technical rules, such as co-channel interference standards and limits on antenna height and power levels, will be very difficult to conform due to variety and unpredictability of consequences to different Part 90 radio services. (3-4)
- Stress diversity of CMRS services and recommends against trying to conform rules for all reclassified CMRS services to those for large-scale, wide-area CMRS providers. (5)
- Recommend caution to avoid disruption of traditional non-commercial, internal use private radio systems. (6) **
- To promote simplicity and clarity in the regulatory process, recommends against addressing matters in this proceeding that are integrally related to the private land mobile refarming proceeding. If necessary for coherent policy making, issues in both proceedings should be resolved simultaneously. Issues central to refarming should be guided by the record in that proceeding. (7)
- Implementing conformity in the technical and operational rules applicable to various radio services will not always promote regulatory symmetry. The FCC should not seek to implement an unrealistic degree of symmetry. (7-8)

Technical rule change proposals:

- **Service area definitions:** Recommend against licensing on the basis of Commission-defined service areas because it would be harmful to the development of individual internal-use systems at 800 and 900 MHz. (8-9)
- **Co-channel interference criteria:** Recommend against radical restructuring of these rules until likely consequences may be determined. (5-7)

- **Antenna height and power limits:** Recommend against radical restructuring of these rules until likely consequences may be determined. (3-4, 6-7)

Licensing rules and procedures:

- **Comments on new application form:** Support the use of a single application form for all mobile services, but cautions that a form geared toward commercial providers may confuse entities seeking to license internal-use systems and urges the FCC to provide explicit signals on the form to identify sections that do not apply to non-CMRS licensees. (9)

Other:

- **Recommend preserving adequate spectrum for the development of smaller SMR systems at 900 MHz that are designed to serve users on a local level. (8)**

LEGALCOM SERVICES, INC.

Interest: Producer of software to assist applicants for FCC authorizations.

Licensing rules and procedures:

- **Comments on new application form:** Requests that the Commission adopt procedures and policies that will permit and facilitate the filing of third-party, computer-generated FCC Form 600 applications. (3)
 - Believes the FCC Form 600 should be on 8 1/2"x11" paper, and not use carbons, NCR paper, or any other printing technology incompatible with laser printers. (2)
 - Proposes that Commission articulate objective standards that any computer-generated FCC Form 600 must meet. (2)
 - Recommends that Commission establish procedures by which computer-generated FCC Forms 600 meeting its standards can be certified as acceptable. (2)
 - Argues that Commission should adopt rules that deem certified, computer-generated FCC Form 600 fully substitutable with the Commission-supplied forms. (2)

LORAL/QUALCOMM PARTNERSHIP, L.P.

Interest: Applicant to construct a global, low-earth orbit satellite telecommunications system that would use the MSS above 1 GHz frequencies.

Spectrum aggregation caps:

- Until the Commission determines whether MSS above 1 GHz is CMRS, any consideration of or decision on whether to apply a spectrum cap to that spectrum is premature. (3)
- While the issue of the amount of spectrum to be awarded to, and divided among, MSS licensees is central to the MSS proceeding, any consideration of or decision on whether to apply a spectrum cap to MSS spectrum is premature. (3)
- MSS licensees share spectrum, obviating the need for a cap to promote competition. (3-4)
- Competition with foreign MSS systems could be crippled by a spectrum cap. (4-5)
- The Commission should not impose a spectrum cap on separate terrestrial MSS service providers because such activity would impose a de facto cap on the space segment licensee. (5)
- If a cap is imposed, it should only be applied to user bands and not to feeder link bands allocated to the fixed-satellite service. (5)
- An MSS spectrum cap should not be imposed after the international coordination process has begun because it could disrupt the coordination process. (5-6)
- MSS spectrum is not susceptible to measurement for aggregation purposes, unlike terrestrial wire services that which have market-by-market spectrum assignments. (6)

MCCAW CELLULAR COMMUNICATIONS, INC.

Interest: Provider of CMRS offerings, including cellular, paging and 800 MHz air-to-ground services; potential PCS provider.

Substantial similarity between services:

- Substantially similar services should be defined broadly and generally, focusing on their position in the CMRS marketplace and the identity of the customers they are trying to serve. (21)
- The following factors should be considered when evaluating substantial similarity among services:
(1) whether service providers claim their service is substitutable for another CMRS offering; (2) whether customers are actually choosing between the two services when deciding which mobile service to use; and (3) the respective marketing approaches adopted by CMRS providers. (22)
- ESMR licensees have sought to provide services that are functionally indistinguishable to the consumer from Part 22 cellular services, and thus these two services are substantially similar. (22-23)
- Private carrier paging services and common carrier paging services are substantially similar. (23-24)

Creating comparable regulatory requirements:

- The FCC should amend its rules to explicitly authorize all CMRS providers to offer private and commercial mobile services utilizing the same authorized frequency. This change is necessary to level the playing field for all CMRS providers. (18-20)
- While the Budget Act does not compel the rigid application of identical rules to all Part 22 and Part 90 licensees, the FCC must undertake a thorough examination of its rules to determine when complete conformance is essential to fair marketplace competition and when different rules can be retained without competitive effect. In this regard, recommends that comparable requirements be extended to Part 24 PCS licensees as well as Part 22 and Part 90 services. (25)

Spectrum aggregation caps:

- A general spectrum cap is not necessary to maintain a competitive mobile marketplace and may prevent cellular and broadband PCS providers from participating meaningfully in the CMRS marketplace. (10-11)
- In rare cases where the FCC has specifically identified the need for a spectrum cap to protect the public interest, any valid competitive concerns could be addressed through the licensing process for the particular service. (12-14)
- Adoption of a blanket spectrum cap raises difficult questions with respect to its fair and equitable application consistent with the regulatory parity decisions. (14-18)

Technical rule change proposals:

- **Antenna height and power limits:** Absent any justification for the significant differences in standards, the height-power rules must be adjusted to achieve the statutory goal of regulatory parity. (26-27)
- **Modulation and emission requirements:** Supports adoption of this proposal as it will enhance the ability of CMRS operators to respond to customer needs. (27-28)

Operational rule change proposals:

- **Construction periods and coverage requirements:** Definition of "commencement of service" should focus on the system's interconnection to the public switched telephone network and its capability to provide service. (28)
- **Permissible uses:** Should extend CMRS providers the same flexibility to provide fixed services on their spectrum, as well as to provide both PMRS and CMRS on the same block of frequencies as was afforded PCS licensees. (29-30)
- **Equal employment opportunities:** Urges the FCC to apply these standards fairly while maintaining maximum flexibility in system management agreements. (30)

Licensing rules and procedures:

- **Comments on new application forms:**

- Supports the single application form with modular parts. However, to ensure that the form can be properly evaluated by the mobile services industry and modified as necessary, the FCC should defer action on the form. (31-32)
- Urges the FCC to complete the transition to the NAD 83 standard as quickly as possible. (32-33)

- **Qualifying information:** All CMRS applicants should be required to provide comparable qualifying information. (34)

- **Application fees:** Application and regulatory fees should be conformed between Part 22 and Part 90 licensees to aid in placing all such licensees on comparable footing. (34)

- **Public notice and petition to deny procedures:** Objects to the proposal to subject Phase II cellular unserved area applications to a 30 day window for the filing of mutually exclusive applications. (35-36) **

- **Amendment of applications and license modifications:** In developing rules applicable to all CMRS licensees to govern the definition of major/minor amendments and applications, the FCC should minimize these filings as much as possible and delete the requirement that cellular licensees file Form 489 notifications regarding interior cell sites. (36-37)

- **Transfers of control and assignments:** These forms should be conformed for all CMRS licensees and should request submission of all information necessary under the statutory provisions to permit processing of the transfer or assignment request, but not extraneous data. (33-34)

Other:

- Because cellular operators and other CMRS licensees rely heavily upon fixed microwave facilities for interconnection links, Part 21 and Part 94 should be reviewed for areas where rule changes are necessary to accommodate the new CMRS regulatory structure. (37)

METROCALL

Interest: Common carrier and private carrier paging provider.

Substantial similarity between services:

- Urges the FCC to continue to treat shared frequency services differently from exclusive frequency services. Thus, shared PCP assignments should not be considered substantially similar to Part 22 paging operations. (7-8)

Creating comparable regulatory requirements:

- When faced with two alternative rules or regulations, the Commission should choose the alternative that would be most practical and least burdensome for the mobile radio industry. (4)
- In view of the unique needs of shared frequency operators, the FCC should streamline and consolidate the shared use rules in one place, apart from the rules applicable to exclusive operations. (7)

Spectrum aggregation caps:

- Generally argues that the imposition of a spectrum cap is too late and does not reconcile with the Commission's "fondness for auctions." (21-22)
- Rather than punishing "big guys," the Commission should try to ensure that smaller players also have a fair opportunity to obtain usable spectrum, perhaps by levelling the playing field between large and small business in the auction process. (22)

Technical rule change proposals:

- At the outset, Metrocall urges the FCC to strive for technical and operational comparability wherever possible throughout all mobile service rules, not just those applicable to "substantially similar" CMRS operations. (9-10)
- Suggests that, in formulating these rule changes, the Commission should attempt to foster efficient use of scarce spectrum. (15)
- **Channel assignment rules, service area definitions:**
Suggests two proposals for future spectrum allocations

or for the allocation of unused spectrum: (1) allow the applicant to select a channel assignment model (i.e., to serve a particular community, county, or mile radius); and/or (2) establish various frequency pools with different channel assignment policies. (11)

- **Co-channel interference criteria:** Urges the FCC to safeguard its duty to ensure that licensees are not subjected to harmful interference, but also suggests that, when third parties or licensing decisions cause "injury" to PCP and shared frequency licensees, PCP licensees should be entitled to relief to the fullest extent possible. (12-14)

Operational rule change proposals:

- **Construction periods and coverage requirements:**
 - All CMRS providers should be subject to the same construction requirements. Thus, PCPs should have the 12 month construction period. (15)
 - Disagrees with the proposed new definition of "constructed" as meaning "constructed and providing service to at least two unaffiliated third parties," because there is no correlation between the number of active subscribers and the fact that a station has been timely constructed. (15-16)
 - Moreover, the "two unaffiliated parties" rule is unnecessary to curb warehousing, is impractical, and is unenforceable. (16-17)
 - Suggests that the rules should simply require a station to be fully operational prior to the expiration of the construction period, and rely on something similar to the "finder's preference" program for enforcement. (17)
 - Favors extended construction periods but believes that the existing rules are arbitrary and discriminatory. The FCC should devise a standard set of benchmarks that must be met to qualify for extended construction, driven by market size or number of transmitters. (17-18)
- **Loading requirements, and user eligibility:** Should be eliminated across the board. (18-19)
- **Permissible uses:** Restrictions are essential as applied to shared frequencies. In other circumstances, however, these rules should be revisited or clarified. For

example, it is unclear what the Part 90 prohibition against "broadcasting" means for paging operators that disseminate news and financial data to their subscribers via alphanumeric pagers. (19)

- **Station identification:** Agrees with the proposal to allow multiple station systems to do station identification with one call sign, and that licensees should be able to do so with a digital format. (19)
- **Equal employment opportunities:** Supports proposed extension to all CMRS operators, and favors 16 employee cut-off. (20)

Licensing rules and procedures:

- **Comments on new application form:** Believes that the new form is excessively complicated because it unnecessarily reiterates various eligibility criteria and continues to require microfiche copies from certain CMRS applicants. (23-24)
- **Application fees/regulatory fees:** Disagrees with the proposal to apply the higher Part 22 application and regulatory fees to all CMRS providers as inconsistent with Congress's mandate to ease regulatory burdens and with the FCC's obligations to license quickly and efficiently. Also maintains that none of these issues were adequately addressed in the Further Notice. (24-25)
- **Public notice and petition to deny procedures:** Conversion to Section 309 procedures should not delay the ability of Part 90 or Part 22 licensees to commence operations if the Commission: (1) dismisses frivolous petitions to deny by enforcing the "standing" requirement; (2) requires allegations of fact to be supported by an affidavit; and (3) permits conditional operation prior to expiration of the protest period. (27)
- **Amendment of applications and license modifications:**
 - Agrees with the Commission that modification applications should not be subject to competitive bidding and suggests that major amendments should be treated similarly. (27-28)
 - Urges the Commission to allow licensees to relocate control stations as a minor or permissible change, as long as it can be accomplished without causing harmful interference to other stations. (28)

- **License terms and renewal expectancy:** Agrees with the FCC that Part 90 licenses should be conformed to be 10 years long, and with the proposal to adopt a renewal expectancy for incumbent CMRS licensees. (28)
- **Transfers of control and assignments:** Urges the Commission to clarify the terms of its proposed public interest demonstration, and to permit exceptions to the construction requirement when there are unusual showings of need. (28-29)

Other: In view of the dramatic rule changes resulting from this proceeding, Metrocall urges the Commission to adopt a fairly generous "amnesty" period following adoption of the CMRS rules, to enable licensees to become familiar with the new rules. (20-21)

MOTOROLA INC.

Interest: Manufacturer of equipment used by both private and common carrier mobile radio licensees.

Spectrum aggregation caps:

- Motorola opposes the imposition of a blanket CMRS spectrum cap because such a limit is unnecessary to address any valid competitive concern and would be contrary to the best interest of the public. (3-4)
- The Commission has already found that, with the possible exception of cellular, all of the mobile services that comprise the CMRS are competitive, and that, with the exception of cellular, no existing CMRS provider has market power. (4)
- The Commission's rules already ensure that no single licensee is able to dominate the CMRS marketplace by restricting the amount of broadband PCS and cellular spectrum that can be acquired by cellular licensees, and by limiting the accumulation of broadband and narrowband PCS spectrum by other licensees. (4-5) *•
- Similarly, the Commission has rules in each rule part applicable to mobile service providers that prohibit spectrum warehousing by requiring stations to be constructed and in operation within a limited time after a license is issued. (5-6)
- The imposition of an overall spectrum cap would unfairly prohibit existing licensees from participating in new spectrum allocations and future technological developments. (6)
- By precluding existing operators from taking part in newly established services, the Commission would deprive the public of the benefits brought by existing operators to new services by virtue of their expertise, potential capital investments, and economies of scope. (6)
- Motorola suggests that, rather than imposing a blanket spectrum cap, the Commission continue using service-specific spectrum limits such as those devised in the PCS context. (7)
- If the Commission imposes a blanket spectrum cap, it should clarify that the provision of satellite space segment capacity to CMRS-type providers and the use of fixed microwave frequencies in support of CMRS

operations are not included in the cap. Neither of these is a CMRS operation. (8-9)

- The proposed 40 MHz cap is unreasonable because it fails to take into account the number of different services (PCS, SMR, paging, commercial 220-222 MHz operations, mobile telephone, air-to-ground, and certain satellite services) classified as CMRS. (10)
- The Commission must also formulate a methodology for calculating geographic overlap that fairly takes into account the broad panoply of service areas used in the licensing of existing CMRS operators. (11)
- Similarly, the spectrum cap must be applied in a manner that recognizes that different spectrum bands have unique characteristics that affect their usage. (12)
- The 5 percent attribution rule proposed for application to ownership interests in all CMRS services is over broad and unwarranted given the level of competition in the CMRS marketplace, would unfairly restrict existing operators from participating in new services, is antithetical to the goal of maximizing competition, and is at odds with the Commission's PCS rules. (12-13) *•

NATIONAL ASSOCIATION OF BUSINESS AND RADIO INC. ("NABER")

Interest: Trade association and frequency coordinator.

Substantial similarity between services:

- The Commission must be sensitive to the licensing and operational history of each service and frequency band that it reviews to ensure that those services determined to be similar are regulated such that one does not have a competitive advantage over the other. (5)
- FCC should expand test for evaluating rule changes to include an analysis of the impact on non-CMRS Part 90 licensees and the impact of the proposed rule change within that service's own licensing sphere. (5)
- Since conventional SMR systems operate in different operational environment than trunked systems, the Commission must ensure that rules crafted for the band do not adversely impact conventional systems or non-SMR licensees that are also eligible for the same channels. (8)
- Since 220-222 MHz services are very similar to traditional SMRs, these services should be compared to each other and not to Part 22 services. (8-9)
- Private two way carriers that operate on channels below 800 MHz and are interconnected should not be compared to other systems because they have little ability to expand and compete with any Part 22 service, and comparison would disrupt the Commission's ongoing refarming proceeding. (9)
- Because Part 90 paging systems below 929 MHz operate on frequencies that are heavily shared, these systems are not as readily comparable to Part 22 paging systems, and the special rules mandating channel sharing should be maintained. (10)
- Before reviewing a station based on its classification, the Commission should review its service category since the FB2 classification is used not only for private carrier systems but also for private, owner-operated radio systems. (48)

Spectrum Aggregation Caps:

- Supports a limit on the amount of spectrum assigned to a single entity in an allocation of new spectrum, but opposes a spectrum cap because in a mature market it thwarts the marketplace forces that have led to a competitive wireless communications infrastructure. The Commission's other safeguards will ensure that the market remains competitive. (37)
- If the Commission implements a spectrum cap, it must recognize that a single frequency assignment in one service is not equivalent to a single frequency assignment in another service. (37)

Technical rule change proposals:

- **Service area definitions/transition provisions:**
 - The Commission has divided all SMRs into two groups: wide-area cellular type services and small local providers of traditional dispatch services. Since not all SMR providers fit into one of these two categories and since each license is for multiple channels, service-area based licenses are not appropriate. (11-12) **
 - All new licensing by the Commission would be service area based in the 861/865 MHz and transmitter based for the rest of 800 MHz band. If the applicant wants a service area license, it would have to relocate all non-affiliated entities to the 856/860 MHz portion of the SMR Pool at its own cost. The 861/865 MHz licensees should not be required to move, but if they refuse to relocate at the request of a wide-area licensee and there is available spectrum, when the 861/865 MHz licensee files for renewal, the wide-area licensee may file a competing application. Detailed procedures for the relocation and licensing process are provided. (11-21)
 - Endorses the Commission's proposed concept for 900 MHz licensees and suggests that MTAs most satisfy the needs of SMR providers to serve business customers for dispatch needs. (22)
 - NABER's ACP Section will be submitting a petition for rule making requesting that the Commission create a mechanism to permit a form of limited exclusivity on Part 90 paging channels below 800 MHz. (23)

- The Commission should not alter the licensing and application procedures for the 900 MHz Part 90 systems at this time. (23)
- The Commission should issue MTA/BTA licenses for Part 22 paging services since they have always operated on a single channel exclusive basis and no additional licensees would not be permitted onto a frequency where an MTA/BTA license has previously been issued. The Commission should designate NABER as its advisory committee for Part 22 paging channels. (24)
- Supports the proposal for regional licensing in the 220 MHz band. Supports implementing BTA/MTA licensing at this time, but delay in converting the licensing process may cause difficulties. (24-25)
- **Co-channel interference criteria:** Station separations governed by interference at the border of the service area rather than from the transmitter site will work for services where the Commission issues service based licenses, but in the Part 90 services that retain transmitter based licensing, NABER requests that the Commission retain its rule for predicting interference from the transmitter site. (25)
- **Antenna height and power limits:** Although wide-area SMR systems and cellular systems are similar, the height and power limitations imposed on cellular systems should not be imposed on SMRs because the limited amount of spectrum available to SMRs in some areas combined with these restrictions would make it impossible for SMRs to compete with cellular services. In addition, not all SMR systems operate in a cellular configuration so they have different requirements. (7,26)
- **Modulation and emission requirements:**
 - A licensee should be able to utilize a more liberal emission mask where the licensee is also the licensee on one of the adjacent channels. (26)
 - There is no need for modulation or admission requirements where a licensee enjoys exclusive use of a channel. (28)
- **Interoperability:** Interoperability for Part 90 services is neither desirable or feasible. It would significantly increase the costs of equipment and stifle innovation. (29)

Operational rule change proposals:

- **Construction periods and coverage requirements:**
 - Supports conforming the construction period for Part 90 and 22 systems to one year. (29)
 - Does not oppose requiring that licensees begin "service to the public" by the end of the construction period. However, a licensee should be permitted to make an alternative showing that the system is interconnected with the PSTN. (30)
 - Supports permitting all licensees to enjoy the benefits of extended implementation, the use of performance bonds for 931 MHz requesting extended implementation as currently required for 929 MHz PCP systems, the standardization and use of FCC Form 800A for all Part 90 and non-cellular Part 22 licensees for the reporting of construction status, and continuation of current policy of sending a form a second time if a response is not received, with a third notice that the license will be canceled within 30 days if the second notice does not elicit a response. (31)
- **Loading requirements:** Loading requirements are no longer necessary. However, supports limits on the number of licenses in a single market for a single entity when the Commission makes new spectrum available for licensing. (32)
- **End user eligibility:** Supports elimination of user eligibility rules for all CMRS licensees. (33)
- **Permissible uses:** Supports the lifting of as many permissible use restrictions as possible, but the current permissible communications restrictions are still necessary on shared channels to maximize available airtime. (34)
- **Station identification:** Station identification should be eliminated for nationwide 900 MHz paging and SMR systems. If a single operator is the licensee of a contiguous system with multiple call sign, the Commission should permit a single call sign identification per system for all CMRs and PMRs stations. Part 22 CMRs licensees should be permitted to transmit their identification in digital form, as permitted in Part 90. Supports standardization of the time when identification must take place. (34)

- **General licensee obligations:** Supports conforming rules between Part 90 and 22 concerning: licensee management and control, posting of station licenses, station inspections, and responses to official communications. In order to give licensees and managers the most flexibility possible but ensure that no transfer of control has taken place, the Commission should adopt for all services the policies currently in use for Part 90 and as set out in the "Big Rock" decision. (35)
- **Equal employment opportunities:** The Commission should increase the 16 employee exemption to 25 employees. (36)

Licensing rules and procedures:

- **Comments on new application form:** Supports use of a single modular form in place of Form 401 and Form 574, but recommends specific further changes to simplify the combined form. (38-40)
- **Application fees:** Similarly situated services should be charged the same fees. However, the application fees should be lowered for those applications that have received coordination from one of the recognized frequency advisory committees because they require less Commission review. (41)
- **Public notice and petition to deny requirements:** Agrees with the FCC proposal to place all CMRS applications on public notice. (41)
- **Mutually exclusive applications:**
 - Supports the continued use of first-come, first-serve procedures for Part 90 applications. The Commission should permit mutually exclusive applications within 30 days for the 861/865 service area licensing band, while retaining first-come, first-serve procedures for the 851/860 MHz applications. (42-43)
 - If the Commission does not use first-come, first-serve procedures for 929 MHz paging channels, the Commission should place the applications on public notice prior to frequency coordination so that the coordinator can assist in resolving cases of mutual exclusivity. (43)
 - Part 22 paging frequencies should follow the same procedures as recommended for the 929 MHz paging channels. (43)

- **Amendment of applications and license modifications:** Agrees with the Commission's proposal in Paragraphs 122 and 123 to limit competitive bidding procedures to exceptional modifications and treat only same-day applications as being mutually exclusive. (44)
- **Conditional and special temporary authority:** Does not object to limiting conditional applications to restrict the commencement of operation no sooner than 45 days after Public Notice and if no petitions to deny or mutually exclusive applications are received. However, the conditional licensing should be expanded to include all applications that have received frequency coordination. (45-46)
- **License term and renewal expectancies:** Supports the standard 10 year license term and feels renewal expectancy is vital to ensure that applicants cannot extract financial compensation from legitimate licensees. (46)
- **Transfers of control and assignments:** Accepts the assignment of unconstructed CMRS licenses on shared frequencies. However, if it is an exclusive channel, the transfer of an unconstructed system should only occur when the license was obtained via auction, and not by a lottery or first-come first-serve procedures. When the applications are obtained via lottery or first-come, first serve, the construction requirement should be retained to prevent speculation. (47)

NETWORK USA

Interest: Holder of PCP licenses that has established a series of wide-area networks through the affiliation of several small licensees.

Substantial similarity between services:

- Urges the FCC to continue to treat shared frequency services differently from exclusive frequency services. Thus, shared PCP assignments should not be considered substantially similar to Part 22 paging operations. (7-9)

Creating comparable regulatory requirements:

- When faced with two alternative rules or regulations, the Commission should choose the alternative that would be most practical and least burdensome for the mobile radio industry. (4)
- In view of the unique needs of shared frequency operators, the FCC should streamline and consolidate the shared use rules in one place, apart from the rules applicable to exclusive operations. (6-7) **

Spectrum aggregation caps:

- Generally argues that the imposition of a spectrum cap is too late and does not reconcile with the Commission's "fondness for auctions." (21-22)
- Rather than punishing "big guys," the Commission should try to ensure that smaller players also have a fair opportunity to obtain usable spectrum, perhaps by levelling the playing field between large and small business in the auction process. (22)

Technical rule change proposals:

- At the outset, Network USA urges the FCC to strive for technical and operational comparability wherever possible throughout all mobile service rules, not just those applicable to "substantially similar" CMRS operations. (9-10)
- Also suggests that, in formulating these rule changes, the Commission should attempt to foster efficient use of scarce spectrum. (15)

- **Channel assignment rules, service area definitions:** Suggests two proposals for future spectrum allocations or for the allocation of unused spectrum: (1) allow the applicant to select a channel assignment model (i.e., to serve a particular community, county, or mile radius); and/or (2) establish various frequency pools with different channel assignment policies. (11)
- **Co-channel interference criteria:** Urges the FCC to safeguard its duty to ensure that licensees are not subjected to harmful interference, but also suggests that, when third parties or licensing decisions cause "injury" to PCP and shared frequency licensees, PCP licensees should be entitled to relief to the fullest extent possible. (12-14)

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- **Loading requirements, end user eligibility:** Should be eliminated across the board. (18)

- **Permissible uses:** Rules restricting permissible uses are essential as applied to shared frequencies. In other circumstances, however, these rules should be revisited or clarified. For example, it is unclear what the Part 90 prohibition against "broadcasting" means for paging operators that disseminate news and financial data to their subscribers via alphanumeric pagers. (19)
- **Station identification:** Agrees with the proposal to allow multiple station systems to do station identification with one call sign, and that licensees should be able to do so with a digital format. (19)
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 - Agrees with the Commission that modification applications should not be subject to competitive bidding and suggests that major amendments should be treated similarly. (27)
 - Urges the Commission to allow licensees to relocate control stations as a minor or permissible change,

as long as it can be accomplished without causing harmful interference to other stations. (28)

- **License terms and renewal expectancy:** Agrees with the FCC that Part 90 licenses should be conformed to be 10 years long, and with the proposal to adopt a renewal expectancy for incumbent CMRS licensees. (28)
- **Transfers of control and assignments:** Urges the Commission to clarify the terms of its proposed public interest demonstration, and to permit exceptions to the construction requirement when there are unusual showings of need. (28-29)

Other: In view of the dramatic rule changes resulting from this proceeding, Network USA urges the Commission to adopt a fairly generous "amnesty" period following adoption of the CMRS rules, to enable licensees to become familiar with the new rules. (20)